Appendix F
Member Recommendations for an Integrated State Mercury Regulation

Mercury Citizen Advisory Committee
Recommendations for an Integrated State Mercury Regulation

At the conclusion of the Mercury Citizen Advisory Committee Retreat held April 30 and May 1, 2002, committee members were given an opportunity to provide a one-page summary outlining their thoughts concerning how a state mercury rule should be developed. The focus of the retreat was to examine eight critical issues in the proposed rules and provide recommendations to resolve those issues, seeking consensus where possible. After reflecting upon the dialogue at the retreat, several committee members were interested in providing their thoughts on how best to integrate these critical issues into a state mercury regulation.

Alliant Energy – Joe Shefchek

Alliant Energy (AE) supports mercury emission standards based on sound science and realistic technology assessments. The standards should take into consideration the potential impacts on electric reliability and price to customers. The proposed NR446 mercury regulations present broad implications to the future viability of Wisconsin's energy systems that will result in significant economic impacts to utility customers. The rule fails to address several critical technical issues that cause it to be unduly burdensome and unfeasible to implement. As drafted, the rule presents many concerns with respect to: 1) assessment of environmental benefits; 2) technical feasibility; 3) costs and revenue impacts (both controls and coal combustion byproduct impacts); 4) impacts to Wisconsin energy policy; and, 5) alignment with Federal mercury rules. AE's primary concerns include:

- Mercury in the environment is a global multi-media issue. Making reductions from Wisconsin emission sources alone will have no impact on fish advisories, without reductions from sources outside of our state.
- A recent EPRI mercury modeling study found that mercury deposition declines by less than 5% over most of the state, when Wisconsin utility emissions are completely eliminated. This study used DNR's most recent inventory of mercury sources, plus actual monitored data collected from the Mercury Deposition Network (which includes four sites in Wisconsin) as well as regional meteorological/geographic data, and estimates of mercury contributions mapped from national inventories and global source estimates.
- There are substantial scientific uncertainties about mercury, it's different forms, technology to control it, and it's health effects. Wisconsin utilities switched to sub-bituminous coal to cost-effectively achieve Acid Rain SO2 requirements, however, stack emissions testing has demonstrated this combustion primarily emits elemental mercury - the form most difficult to control and presenting unique challenges.
- The status of commercially available mercury control technologies is only in preliminary development phases and the most promising technology - carbon injection - will cause fly ash contamination, resulting in lost byproduct sales as well as significant landfill impacts.
- There are significant technical implementation issues that remain to be addressed: representative baseline determination methods given data availability, recent plant process changes, natural differences in coal mines and multi-fuel considerations; known inaccuracies of emissions monitoring/testing methods; creditability of early reductions and availability of sufficient offsets; trading procedures and limitations; achievable long-term control results for activated carbon; rule costs including lost sales of coal combustion byproducts plus landfill impacts; short-term relief for temporary system disruptions or equipment malfunctions; magnitude of administrative burden due to complexity of compliance reporting and permitting.

- The rule would drive energy policy for Wisconsin with fuel switching to natural gas resulting in unintended consequences. Massive fuel switching is not feasible - predominantly due to lack of gas pipeline infrastructure, no long-term fuel storage capacity, time needed for plant siting and permitting. It is clear that the rule's mercury reduction requirements will have major impacts on electric reliability, fuel mix and electric costs in Wisconsin. The implementation of such requirements must incorporate more cost factors and anticipate more complications than are included in the development of this rule package.
- The rule provides no multi-pollutant control alternatives and no clear transition to Federal mercury air rules. Wisconsin law states that this proposed rulemaking must consider EPA's decision to regulate mercury nationwide from electric utilities by 2004, via Maximum Achievable Control Technology (MACT) standards.

EPA acknowledges the lack of scientific data on mercury control and is participating in national research programs to try to answer the many questions. Wisconsin's rule contains no assurance that it would be revised to be consistent with the upcoming MACT rules. Due to the many outstanding technical and regulatory issues, AE recommends focusing efforts on setting a reasonable first-phase 5-year reduction for utilities. This reduction level should be consistent with WUA's recommended alternative, of 10% and 40% reductions, in 5 and 10 years respectively. The rule should also provide for alignment with the upcoming federal rules with clear transitioning to MACT or potential multi-emissions legislation. AE hopes our active efforts in the public process will help to resolve everyone's concerns on these issues. Wisconsin's standards should ultimately align with the rest of the nation's, so as not to put our state at an economic disadvantage. Emissions do not recognize any boundaries, so policies should strive to be consistent in creating equitable solutions that address mercury from a national and global perspective.

ECCOLA – Mark Yeager

Hope was the mood that seemed most prevalent during our CAC retreat until the last few hours. The first day and a half of discussion felt filled with the promise of listening and an honest dialogue moving toward an end of at least an agreeable compromise, if not entirely comfortable for all. With so many differing positions it was reasonable that all involved live with some discomfort just as victims living with health effects of contaminated air, water & soil have doing for years. The TAG information suggested to me that emission reductions are more easily achieved technologically and the difficulty lies with the will to do so. On the drive back I kept hearing Bert's words and wondered if I might have contributed to talks unraveling by not considering the impact of some of my more spontaneous language. In hindsight I might have been more careful.

By the end of the second day it became clear that to dig in positions would be the accomplishment. What a waste of a valuable opportunity to truly work together. The suggestion that the four major utilities choose one plant and install emerging technology was so considerate to all the utilities reasons for not moving forward. When the Utility/Industry caucus returned with their statement that their "alternative is no rule" the effect was to stay at square one. Concerns that a higher (above 40%) reduction was "too undefined" for the utilities to take action didn't mesh with their agreeable stance toward 0 to 10% reduction. It was not the "undefinition" because they could sign on to an all too easy token reduction and 90% is no more undefined than 10%. I don't understand how a position of 0 to 10 % reduction safeguards the air, soil and water for the people of WI. In spite of Mr. Hoopman's and Mr. Skewes' claims, we are not interested in removing all Hg from Nature. Rule 446 would limit manmade sources from

exacerbating a problem that threatens people today and in the future. TAG summaries showed that even with current technology we are a lot closer to substantial cleanup than 10%.

After caucusing the Utilities/ Industry group acted like WI natural resources belonged solely to them for their own profits. Although they are used to business as usual there exist many other values necessary for quality of life, sometimes contrary to business profits. We must allow room for WI citizens to embrace these values. The DNR has the responsibility of protecting the health of human, wildlife, & plantlife, yet not be limited to protection of business interests.

Most interesting was Mr. Hoopman's comment that "those of us that are grownups in this room" could see there could be no meeting of minds on this {Hg issue}. It certainly leads us to examine what does it mean to be grown up. To only have one value & perspective and no discussion on alternatives? Or to give in to business as usual and allow no hope of healthier air, water or resources for our loved ones? Or maybe something even more hideous?

I believe the offer of allowing the biggest polluters to install emerging technology and learn more is more than fair to business interests and at least starts to move in a healthier direction for WI citizens. Aspects of 446 such as trading and variances and reviews could easily be defined once this is committed to. We've got to start someplace, and now. Profits are not in jeopardy but health is.

Great Lakes Indian Fish and Wildlife Commission – John Coleman

GLIFWC's member tribes are very concerned about mercury emissions, believe that Wisconsin needs to be a leader in reducing emissions from coal-fired utilities and other stationary sources, and support the most aggressive reduction schedule that is achievable. Within the context of the rule that is proposed, here are some of our current thoughts about the preferred alternatives based on the issues discussed at the retreat.

Baseline

Use current year fuel mercury content and emission rate data and apply to historic coal throughput during the identified baseline years of 1998 to 2000. Alternatively, baseline can be based on historic emission data and historic coal throughput from the baseline period if the plant's control technology has changed significantly in recent years.

A real-time baseline that is derived from the amount of mercury in the coal and emissions data to calculate removal efficiency is inappropriate because this would require a reformulation of many parts of the rule and would provide an incentive to use high mercury fuels.

State v. Federal Requirements

Under Periodic Rule Evaluations the DNR is required to review proposed rules and report to the Natural Resources Board on any relevant federal rule or law. The state must also recommend revisions to state law as appropriate so that state and federal laws do not conflict. This is sufficient to insure that there are not conflicting regulations. Wording should be incorporated that aims to avoid penalties under the Federal rules for reductions made after the state regulations are promulgated.

Periodic Rule Evaluations

We support the language that was developed at the meeting. The language follows:

"The Department will provide the Natural Resources Board with a detailed report upon proposal of Federal MACT with an opportunity for public input. The department shall also prepare a review upon promulgation of Federal MACT or Federal legislation in order to reconcile State and Federal requirements. In addition the Department will report to the Natural Resources Board at least every two years on the status of the mercury reductions."

Reliability (Variance Procedures)

Maintain the existing variance language and in addition provide variance opportunity for non-major utility sources affected by the mercury rules. The rule language should be clear that compliance is an annual measure and that there is an adjustment period during which there is an opportunity to compensate for short-term over-emission.

Emission Caps

Elimination of the cap requirement for sources (facilities, not units) over 10 pounds is appropriate only if there is an enforceable requirement for these sources to limit and reduce mercury emissions through other methods such as increased energy efficiency.

Growth (Offset Requirements)

Offsets for new sources are needed to insure that there is an overall reduction in mercury emissions. Offsets should be required immediately at the promulgation of the rule so that there is not a dis-incentive for new sources to use control technology during the first four years of the rule. Offsets should initially be 1.5 : 1 with phasing to a ratio of 1 : 1 in the second and third phase of the rules.

Reduction Requirements

Reduction requirements must be at least as stringent as proposed in the draft rule. However, an approach that has no reduction requirement but requires installation of tested, available technology in the first phase may be an appropriate alternative. However, such an alternative must be linked to a stringent second phase reduction requirement that must be met in 10 years.

The reduction schedule proposed by the utilities of 10% in five years and 40% in 10 years is not sufficient because:

- 10% does not drive the testing/installation/incorporation of the new technologies that will be necessary to achieve higher reductions. New technologies won't get tested or installed until the second phase.

- given the magnitude of the mercury problem and the fact that utilities' mercury emissions have been unregulated to date, it is reasonable that utilities be required to "push" to reach a first phase goal.

A technology based first phase may be acceptable because:

- there are risks on both sides – the fact that the technology may not work as designed is a financial risk for the utilities. There is also an environmental risk – mercury emissions will not be reduced if the technologies do not work.

- this approach eliminates concerns about complying with fixed reduction requirements during the first phase, when uncertainty is greatest. In addition, installation of promising new technology in the first phase may provide larger mercury reductions in early years than would be provided by a simple reduction requirement.

If a technology based approach is used in the first phase, then:

- there must be a stringent second phase requiring at least an 80% emission reduction from baseline beginning in 10 years and 90% or more in the third phase (15 years).

- DNR must approve the choice of technology to ensure that it is likely to provide significant reduction in mercury emissions. The technologies selected should be those that are relatively well developed.

- here must be a requirement that each industry permanently install, within 5 years, the selected technology on their unit emitting the most mercury.

Trading

The trading provision should incorporate a requirement for credits to expire 5 year after they were generated. Credit should be given for reductions after the baseline years but before rule promulgation. This will create an adequate initial pool of credits. Over the life of the rule, the trading program should be phased out.

Trading must be included in the rule in order to encourage non-utility mercury sources to reduce their emissions. It is appropriate to place limits on the amount of reduction that can come from the use of emission credits. It is also appropriate to discount the amount of credit that can be generated from product collection programs in the recognition that not all of that mercury would end up in the atmosphere.

Compliance

As currently written the rule requires an annual measure of compliance with a several month adjustment period. This and the ability to trade for a portion of compliance, is adequate to account for short-term emission problems at a facility.

Random Lake Association – Wayne Stroessner

Whenever one negotiates to settle opposing issues to form a consensus, it is necessary for both sides to be sincere during negotiations. I found that most of the issues at the two-day retreat were handled in a compromising fashion, except for the most important issue which affects the health of people, other organisms and our environment in general. That issue deals with Reduction Requirements.

The RULE, as written, provides sufficient time and sufficient leeway through variances to meet the 30% - 50% - 90% regulations within a fifteen year period. Personally, I would like to see them meet the highest level of regulation immediately, but I realize that is not possible. However, after the utilities/industries caucused and announced that they would accept a 10% reduction in five years and a 40% reduction in ten years, the room became silent. No one responded. I

finally spoke up and asked: "Are we supposed to respond to this?" What do you intend to do? Place a wet sock in your smokestacks? Needless to say, nearly everyone in the room had a good laugh...I believe even utility representatives joined in.

Our entire committee heard results of studies presented by the TAG (Technical Advisory Group) in which they showed that regulations of at least the first two phases could be met. Research done by the utilities themselves have shown that values around 70% can be attained. We also heard that demonstrations in laboratories indicate that reductions as high as 95% might be possible if the experimental models can be brought up to full scale. Responding with a 10%/40% proposal indicates that the utilities/industries are not sincere about their proposal.

I believe that we should, at a minimum, use the Reduction Requirement as presented in the DNR's RULE, or at best, use the recommendation provided by Wisconsin's Environmental Decade to reduce emissions similar to Federal, bipartisan bills which are calling for 90% mercury reductions from power plants by 2007.

What concerns me even more about the two-day retreat, utilities' representatives kept indicating that they would accept some of the environmental regulations if "our side" would not resist their construction of new coal-fired plants. That is an entirely different issue which must not only consider pollution from mercury, but any new construction of a coal-fired plant must consider the following costs including health and environmental damage:

a. From soot alone - 64,000 deaths per year in the US:
b. From Acid Precipitation - from both SOx and NOx:
c. From Smog - from NOx and VOCs:
d. From Toxins - including mercury, arsenic, and other heavy metals & gases:
e. From Carbon Dioxide - a Major Contributor of Global Warming:
f. From Infrastructure for the Fossil Fuel Industries:
g. From possibilities of another Sept. 11th-type of attack on power plants:

(Details for the above factors are given in more detail on another sheet.)

What is needed is a switch to a hydrogen economy in which fuel cells can provide distributive electricity, heat and pure water for each building whether it be a residence, factory, school, hospital or any type of building. There would be no need for large utility plants to provide electricity to large areas. There would be no need for new smokestacks. There would be no large transmission lines to pass through pristine landscapes and there would be no difficulties associated with the numerous environmental problems listed above.

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COSTS TO SOCIETY FOR A FOSSIL FUEL ECONOMY

a. From soot alone:
1) the 64,000 deaths/year;
2) viral respiratory infections like pneumonia, chronic lung diseases, like asthma, that destroy lives over the course of years;
3) the 603,000 asthma attacks nationwide every year;
4) probable heart attacks and arrhythmia and the incidence of strokes and heart failure;

b. From Acid Precipitation:
1) upsetting the delicate balance and making lakes and streams unable to support life;

2) the cost to tourism for lost fishing and recreational use of those lakes and streams:
3) destruction of forests, killing plant and animal life and eating of manmade monuments and buildings;

c. From Smog:
1) more than 100 million Americans live in regions that fail to meet health-based smog standards;
2) the loss of tourism for lost sight-seeing in state and national parks;
3) asthma attacks and other respiratory illnesses;
4) the 159,000 trips to the emergency room, 53,000 hospital admissions, and 6 million asthma attacks each summer in eastern US;

d. From Toxins:
1) more than one billion pounds of toxic pollution in 1998;
2) including 9 million pounds of toxic metals and metal compounds;
3) 750 million pounds of dangerous acid gases;
4) the many compounds that are known or suspected carcinogens and neurotoxins and can cause acute respiratory problems, and aggravate asthma and emphysema;
5) mercury emissions - a known neurotoxin that may affect brain, and also lung, and kidney damage, as well as reproductive problems, and even death in humans and other animals;
6) the fishing and tourism industry because of "fish advisories" from mercury contaminated fish;
7) NOTE! "Just one drop of mercury can contaminate a 25-acre lake to the point where fish are unsafe to eat";
8) the six million women of childbearing age have levels of mercury in their bodies that exceed what the EPA considers acceptable and that 375,, 000 babies born each year are at risk of neurological problems due to exposure to mercury in the womb;
9) the numerous other heavy metals such as arsenic as well as a known carcinogen, asbestos, are all released from the burning and handling of fossil fuels;

e. From Carbon Dioxide - a Major Contributor of Global Warming:
1) 490.5 million metric tons of CO2 from coal-fired power plants alone;
2) the 30% increase of CO2 since the beginning of the Industrial Revolution;
3) the 1990s were the hottest decade on record;

f. From Infrastructure for the Fossil Fuel Industries:
1) the cost of maintaining loading docks, rail transport, harbor maintenance, etc.;
2) subsidies provided by taxpayers for these industries including such items as Desert Storm and other battles fought over our energy supplies;
3) oil clean ups, oil spills, street contamination from exhaust fumes, water contamination from contaminated streets, etc.;
4) destruction of surface soil and waters from coal mining operations;
5) the present federal administration's desire to permit the removal of mountain tops for these precious resources;
6) etcetera!

(Information taken from Sierra Club Web site - arranged by Wayne Stroessner)

Wisconsin Electric – Kathleen Standen

Wisconsin Electric (WE) supports a mandatory program which would require 10 and 40% reductions from utility sources over five and ten years, respectively. This two-phased approach would stimulate the technological development necessary to achieve cost-effective mercury

reductions without environmental disbenefits. It would also assist in facilitating the transition to pending federal rules for electric utility units.

Necessary features of this reduction schedule include multi-emission alternative, and elimination of offset requirement. The multi-emission alternative would allow a source to opt out of predetermined reduction requirements in exchange for developing and reaching a binding agreement with the Department on a multi-emission program alternative. The multi-emission agreement would address, at a minimum, NOx, SO_2, and mercury. Each agreement would include a specific multi-emission plan optimized across mercury and other emissions for the applicable electric system. Objectives of this multi-emission, cross-media plan are to reduce mercury, to continue to beneficially re-use combustion products, to avoid the need to expand landfill requirements, and to manage emission control and by-product disposal costs.

The offset requirement would be replaced with case-by-case mercury controls for new sources as currently required by federal MACTS standards. Any new utility unit is *already* covered by a case-by-case federal MACT standard. This was an important outcome of U.S.EPA's December 2000 regulatory determination for mercury standards applicable to utility boilers. The federal case by case MACT standard combined with the two-phased reduction schedule represent a comprehensive state-only program without the addition of emission offset requirements. In fact, the offset provisions have the potential to limit beneficial modifications to existing coal units, and prohibit the future development of new coal-fired generation in the state. Additional capital investments on older units would be needed to generate offsets, and this investment would financially delay the retirement of those very units. It is unlikely that a sufficient offset market would be developed based on voluntary excess reductions from industrial sources. Regulatory disincentives (NR406 state permitting rules, and federal New Source Review regulations) exist that would discourage additional reductions from industrial sources.

We would also support an advanced technology option, although this has not been fully defined as an alternative. The focus of an advanced technology option would be to encourage and allow technology testing and development as a compliance supplement. The advance technology option would stop short of requiring permanent installation of the control that was being developed. The intention would be to encourage and recognize applied development of innovative technology, not to force adapting a technology that results, for example, in sub-optimum performance, undesirable consequences, or unacceptable costs.

Along with the basic features of the regulation (the reduction schedule, elimination of offsets and compliance alternatives) there are several underlying implementation issues to be resolved. WE can accept a historic emission baseline, provided that the new data collected through the U.S.EPA ICR, and through subsequent mercury testing, is applied. We propose replacing the mass balance compliance demonstration with a method based on unit-specific mercury emission factors obtained from periodic stack testing combined with coal consumption and mercury coal concentration coal data. The rules would require stack testing to determine unit-specific emission factors. Stack testing would be required to occur shortly after the rule is promulgated, unless approved stack tests were done in advance of rule implementation. Periodic testing and development of updated emission factors would occur consistent with the Title V testing frequency, or if the source changes fuel type of emission control equipment. The coal sampling and analysis frequency in the proposed rule is acceptable, although the analysis procedures and methods need to be updated to take into account new analytical techniques and methods. Finally, construction permitting requirements in NR406 need to be modified so avoid permitting complications for mercury control projects.

The narrow scope of the existing variance provisions may create a reliability risk. Variance provisions need to be expanded to provide short-term compliance flexibility in the event that electric utilities are faced with control technology malfunctions or operational situations which force them to choose between remaining in compliance or shutting down units which are needed to meet system electric demand. The rules need to recognize and provide variance provisions in light of the early status of technology development and lack of operational experience with mercury-specific controls. Without this kind of variance opportunity, utilities will be forced to build redundancy into their control investments in order to avoid the risk of non-compliance. This results in additional costs that are either passed on to ratepayers or assumed as a shareholder risk.

Trading and averaging provisions are a necessary part of the rule package, including mercury product collection or pollution reduction projects. All sources of mercury releases to the environment should be eligible as a means to supplement installation of mercury controls. Trading is important during the early compliance stages as mercury-specific controls are being developed and as operational experience is accumulated. Trading is important in the later phase of mercury rules since it may be a more cost-effective compliance option.

The state rules must provide a means for facilitating a transition to federal standards, including assuring baseline protection and avoiding penalty for early action.

Wisconsin's Environmental Decade – Marc Looze

Wisconsin's Environmental Decade (WED) wishes to see a state rule that requires deep cuts in mercury emissions from coal-fired utility boilers. We recognize the need to move forward immediately with state action to curb further mercury releases into Wisconsin's and other states' surface waters. It is imprudent to choose a course of inaction and wait for a federal reduction requirement, whether in the form of a MACT standard, a bill in Congress or a Presidential proposal that may never go into effect or may be held up in court by numerous legal challenges. The Bush Administration's "Clear Skies Initiative" would mandate a 70% reduction in national mercury emissions from electric utilities by 2018; other than a no-action alternative, this is the lowest percent reduction proposed. WED maintains that a 90% reduction of mercury emissions is necessary but in light of pending federal action, we support an alternative that would require major utilities to install mercury control technology on a significant unit in their system as a first phase of a Wisconsin rule.
Recognizing that Wisconsin's rule must be somewhat consistent with federal mercury policy, we support an evaluation of the rule when we are more certain of federal law, with status reports occurring roughly every two years.

Because utilities have largely avoided or received exemptions from making mercury emissions reductions in the past, WED believes that trading should be restricted greatly; the use of emission credits from small source reduction programs should not be a part of the final rule package. Ideally, large source trading would not exist in the rule either; our state is poised to set a precedent and the establishment of a liberal mercury trading program would set a bad precedent nationally. However, the inclusion of such a provision may assist utilities in complying with the rule while providing additional environmental benefits (i.e. the elimination of fugitive mercury emissions at Vulcan's chlor-alkali plant).

Since elimination of anthropogenic mercury emissions is the ultimate goal (though not the outcome of WI's rule) emission caps and growth are essential issues. We support phasing the emission offset ratio over time, from 1.5:1 to 1:1. No source should be allowed to increase

mercury emissions. Energy efficiency improvements (in lieu of a cap) would likely lead to mercury reductions, but such a reduction would need to be guaranteed.

The rule needs to insure that electric reliability is not jeopardized, which is why we support the existing variance language. In the event of short-term service interruptions, utilities may request a variance when reporting annual emissions.

Wisconsin Manufacturers and Commerce – Jeff Schoepke

As the DNR assembles its mercury rule package, it must first ask itself the primary question of legislative directive and statutory authority. State law, SS.285.27(2)(a) prescribes the fundamental test for any air toxics regulation – such regulation must be "similar" and "may not be more restrictive in terms of emission limitations than the federal standard." DNR's proposed mercury rule is on a collision course with this state law. For example, an underlying compliance precept of the proposed rule is the trading of mercury emission reductions. In contrast, section 112 of the clean air act prohibits trading. Other provisions will inevitably be inconsistent. Thus, we know now that DNR rule will not be "similar" to the pending federal rules. In addition, major source caps are inconsistent and often more "restrictive" than emission rates, which will be the approach taken by EPA in its pending MACT standards.

Beyond issues of inconsistencies, DNR has not shown a need for this rule in light of the pending federal programs. In fact, because most mercury comes from out of state, DNR has always agreed with us that the real solution is a federal program. On this point, WMC is aware of no sources listed in the proposed rule that are not subject to existing or will be subject to proposed federal mercury regulations.

Because of the inevitable inconsistencies between the federal and state programs, the regional nature of mercury emissions, and the likelihood federal rules will better address the mercury problem, WMC believes the state rule must be indefinitely postponed until the federal programs are in place.

If a rule is to move forward, at a minimum the major source cap must be eliminated. The cap is in effect a cap on the productive capacity of some industrial boilers. Further, the 10-pound threshold is arbitrary, provides little environmental benefit and should be applied on a unit basis not a facility-wide basis.

In addition, if the trading element of the rule is removed, the argument for major source caps is even weaker as they will not be needed to provide the credits needed to make such a program robust. The department has stated several times that a robust trading program was a major reason for including the cap in the rule.

WMC is interested in exploring the option developed by the CAC to replace the major source cap with energy efficiency agreements between the DNR and companies. However, more detail is need before we can sign onto such a concept.

Further, any utility reductions should be reasonable and implementable. They should not be more than is expected of utilities in other states, as resulting higher electric rates will put Wisconsin companies at a competitive disadvantage. While we have significant concerns about the rate impacts of the proposal by the Wisconsin Utility Association calling for 10% and 40% reductions, this appears to be a much more reasonable approach.

Mercury credits will not be available, particularly as more and more sources will be required to move from state to federal program, less likely to allow trading. Therefore the rule's requirement for new sources to get offsets should be eliminated.

Wisconsin Paper Council – Ed Wilusz

The following responds to the opportunity for Mercury Citizen Advisory Committee members to submit a "one pager" that integrates the various issues into a single, short summary. These comments have been reviewed by Annabeth Reitter. Please see our public comments on NR 446 for a more complete discussion of these issues.

While mercury contamination is a legitimate issue, it is likely that proposed NR 446 will provide little, if any environmental benefit. Mercury air deposition is a global phenomenon, with Wisconsin sources contributing only a tiny fraction to the global emission pool. Research on the cause and effect of mercury emissions is incomplete and inconclusive. As a result, it is impossible to predict what environmental benefit, if any, will result from specific emission reduction scenarios. Evidence from the Department's Air Emissions Inventory suggests there will be little benefit (estimated mercury emissions dropped 30% from 1990 to 1996, yet more fish advisories were issued).

The paper industry could bear both direct and indirect costs from the proposed rule. Indirect costs would be in the form of increases electric rates. One utility, serving thirteen paper companies, estimates that the cost of the proposed rule would increase rates by 25%, when fully implemented. This translates into an annual energy cost increase of almost $21 million for these thirteen companies.

Direct costs from an emissions cap include limiting the economic growth of affected sources (unless expensive controls are installed, which is unlikely). WPC estimates show that affected companies would be limited to about one-half to two-thirds of available boiler capacity. DNR estimates are similar.

Two other points are worth noting. First, the federal industrial boiler MACT will be proposed later this year and will likely include a mercury limit, immediately putting NR 446 at odds with the national standard. Second, a Wisconsin-only emissions trading program is probably not viable under any circumstances. Even if it were, the role of industrial boilers would be very limited.

The paper industry represents a small fraction of total mercury emissions in Wisconsin — approximately 140-240 pounds based on Department estimates. The largest individual unit emits approximately 10 pounds. These are insignificant sources of mercury that would be capped with no resulting environmental benefit, but that would incur increased costs in terms of higher energy rates, limited economic growth, and potential regulatory conflicts with federal regulations. These sources should not be regulated by the state.

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